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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,966	07/30/2003	Gary E. Sullivan	P1468US01	9544
32709	7590	12/28/2007		
Gateway Inc Patent Attorney PO Box 2000 N. Sioux City, SD 57049			EXAMINER STOKELY-COLLINS, JASMINE N	
			ART UNIT 4178	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,966	<b>Applicant(s)</b> SULLIVAN ET AL.	
	<b>Examiner</b> JASMINE STOKELY-COLLINS	<b>Art Unit</b> 4178	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>none</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-11 and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6, 9-12, 22 and 24 of US Patent 6,662,365.

Claim1 claims a system for controlling a plurality of parental control subsystem in an audio/visual system with additional limitations, “a memory and a display exhibiting a GUI”, “control programming...” that perform the method of the Patent claims 1 and 15.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both the claims of instant application and the Patent claims

are almost the same in scope although the Patent's claims are method claim and Application's claims are system claim. Therefore, it would have been obvious to one of ordinary skill in the art to modify the method claim of the Patent to be a system claim, as claimed so to obtain a system to perform the method claim of the Patent.

Allowance of application claim 1 would result in an unjustified time-wise extension of the monopoly granted for the invention defined by Patent claims 1 and 15. Therefore, obviousness-type double patenting is appropriate.

Claim 2 of application 10/629,966 corresponds to claim 2 of U.S. Patent No. 6,662,365 B1.

Claim 3 of application 10/629,966 corresponds to claim 3 of U.S. Patent No. 6,662,365 B1.

Claim 4 of application 10/629,966 corresponds to claim 4 of U.S. Patent No. 6,662,365 B1.

Claim 5 of application 10/629,966 corresponds to claim 5 of U.S. Patent No. 6,662,365 B1.

Claim 6 of application 10/629,966 corresponds to claim 6 of U.S. Patent No. 6,662,365 B1.

Claim 7 of application 10/629,966 corresponds to claim 9 of U.S. Patent No. 6,662,365 B1.

Claim 8 of application 10/629,966 corresponds to claim 10 of U.S. Patent No. 6,662,365 B1.

Claim 9 of application 10/629,966 corresponds to claim 11 of U.S. Patent No. 6,662,365 B1.

Claim 10 of application 10/629,966 corresponds to claim 12 of U.S. Patent No. 6,662,365 B1.

Claim 11 of application 10/629,966 corresponds to claim 22 of U.S. Patent No. 6,662,365 B1.

Claim 13 of application 10/629,966 corresponds to claim 24 of U.S. Patent No. 6,662,365 B1.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 4178

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeCarmo (US 6,760,915 B2) in view of Ward III et al (US 2002/0013941 A1).

Regarding claim 1, DeCarmo teaches a system for controlling a plurality of parental control subsystems in an audio/visual system (column 2 lines 4-6, lines 9-12), comprising:

a computer (column 3 lines 17-19) having a memory (figure 1 elements 110 and 115, column 3 lines 25-31) and a display (figure 1 element 170, column 3 lines 58-60);

one or more audio and/or audiovisual devices interfaced to said computer (column 4 lines 18-19 and 47-53), wherein at least one of said audio and/or audiovisual devices comprises a native parental control subsystem having adjustable parameters (which version of a movie to send, column 8 lines 5-7); control programming which operates the computer to receive user input (figure 2 element 204, column 4 lines 35-36), said user input allowing a user to choose one or more general parental control parameters (column 2 lines 18-22, lines 41-45); and control programming which operates the computer to set the adjustable parameters of each native parental control subsystem within said system (column 8 lines 5-10).

DeCarmo does not teach said system is configurable by a graphical user interface (GUI).

Ward teaches a parental control system configurable by a graphical user interface (GUI) (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a GUI to configure parental control settings, as taught by Ward, with the parental control system taught by DeCarmo for the benefit of providing a user with an easy-to-use interface for setting parental controls.

Regarding claim 2, when read in light of claim 1, DeCarmo further teaches said one or more audio and/or audiovisual devices comprises a plurality of audio and/or audiovisual devices interfaced to said computer (column 4 lines 18-19 and 47-53), and wherein at least two of said audio and/or audiovisual devices comprise a native parental control subsystem having adjustable parameters (column 2 lines 4-6 and 9-12, column 8 lines 5-10 disclose a native parental control system in a DVD player, and column 4 lines 47-53 disclose two DVD players may be attached to the system).

Regarding claim 3, when read in light of claim 2, DeCarmo further teaches said at least two audiovisual devices are multimedia devices (column 4 lines 47-53).

Regarding claim 4, when read in light of claim 3, DeCarmo further teaches said multimedia devices are one or more DVD devices (column 4 lines 18-19 and lines 47-53), video tape devices, television devices (column 4 lines 53-54), or any combination thereof.

Regarding claim 5, when read in light of claim 4, DeCarmo further teaches said television devices are selected from the group consisting of televisions, cable television set top boxes (figure 2 element 218, column 4 lines 54-55), digital satellite service set top converters (figure 2 element 216, column 4 lines 53-54), television tuner cards, and any combination thereof.

Regarding claim 6, when read in light of claim 2, regarding limitation "said user input comprises user responses to a series of on-screen questions", it would have been obvious to one of ordinary skill at the time the invention was made to alter the parental control set-up taught by Ward by presenting the viewer with the questions implied by the menu screen. For example, in figure 1 DeCarmo is implicitly asking "Which category would you like?" to the user. In figure 6, after a user has selected "By Ratings" in figure 5, the implicit question is "Which ratings would you like to allow?". Examiner takes official notice that it was well known, and obvious, to simplify the selection process even further by displaying those questions which are implied by each menu screen.



Regarding claim 7, when read in light of claim 2, Ward further teaches user input comprises user selection of on- screen items displayed via said graphical user interface (page 4 section 0051).

Regarding claim 8, when read in light of claim 7, Ward further teaches said graphical user interface comprises a first on-screen overlay, said first on-screen overlay comprising audiovisual content-based user-selectable items (figure 1, when user selects "By Ratings"), and a second on-screen overlay, said second on-screen overlay comprising television channel-based user-selectable items (figure 1, when user selects "By Channel").

Regarding claim 9, when read in light of claim 8, Ward further teaches audiovisual content-based user selectable-items comprise television programming ratings, movie ratings, or both (figure 6).

Regarding claim 10 when read in light of claim 8, Ward further teaches control programming which operates the computer to provide on-screen visual indicia of user input (page 5 section 0071).

Regarding claim 11 when read in light of claim 1, DeCarmo further teaches at least two audio and/or audiovisual devices are interfaced to said computer (column 4 lines 18-19 and lines 47-55), the at least two audio and/or

audiovisual devices including native parental control subsystems (column 2 lines 4-6 and 9-12, column 8 lines 5-10 disclose a native parental control system in a DVD player, and column 4 lines 47-53 disclose two DVD players may be attached to the system).

Regarding claim 12, when read in light of claim 1, DeCarmo further teaches the adjustable control parameters of the native parental control system include a first parental control scheme and a second parental control scheme, the first parental control scheme being incompatible with the second parental control scheme (column 2 lines 4-7 and lines 9-12 suggest DeCarmo's invention can be implemented with multiple devices having incompatible parental control schemes), and wherein the control programming allows a user to choose general control parameters of the first parental control scheme and the second parental control scheme (column 8 lines 5-10 show an example of how ratings manager 210 can adjust the parental control parameters of a device).

Regarding claim 13, when read in light of claim 1, DeCarmo further teaches control programming (column 12 lines 54-59) which operates the computer to set the adjustable parameters of each native parental control subsystems is based on the received user input choosing the one or more general parental parameters (column 2 lines 18-22, column 8 lines 5-10).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASMINE STOKELY-COLLINS whose telephone number is (571)270-3459. The examiner can normally be reached on M-Th 8:00-6:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jasmine Stokely-Collins  
12/26/2007

/Hai Tran/  
Supervisory Patent Examiner, Art Unit 4178